

**2004 No. 3242**

**ENVIRONMENTAL PROTECTION, ENGLAND**

**The Joint Municipal Waste Management Strategies  
(Disapplication of Duties) (England) Regulations 2004**

<i>Made</i> - - - -	<i>8th December 2004</i>
<i>Laid before Parliament</i>	<i>10th December 2004</i>
<i>Coming into force</i> - -	<i>1st January 2005</i>

The Secretary of State is satisfied that performance at the level referred to in regulation 2(a), (b) and (c) of these Regulations counts as satisfactory performance or is at a level higher than that level, and, in exercise of the powers conferred upon her by section 33 of the Waste and Emissions Trading Act 2003(a), makes the following Regulations:

**Title, commencement and extent**

1.—(1) These Regulations may be cited as the Joint Municipal Waste Management Strategies (Disapplication of Duties) (England) Regulations 2004 and come into force on 1st January 2005.

(2) These Regulations apply to England.

**Disapplication of duties**

2. A duty under section 32(1) to (7) of the Waste and Emissions Trading Act 2003 shall not apply to—

- (a) a waste disposal authority or a waste collection authority to which the Secretary of State has given notice in writing that it has been categorised as excellent in an order made under section 99(4) of the Local Government Act 2003(b) (categorisation of English local authorities by reference to performance);
- (b) a waste disposal authority to which the Secretary of State has given notice in writing that it has—
  - (i) met the performance standards for waste authorities specified for it for the most recent financial year for which standards were set by an order under section 4(1) of the Local Government Act 1999(c) (performance indicators and standards); and

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(a) 2003 c.33. By reason of section 41(2) of the Waste and Emissions Trading Act 2003, section 33 of that Act extends only to England and Wales. It applies only to English waste disposal authorities and waste collection authorities.  
(b) 2003 c.26. By reason of section 33(4) of the Waste and Emissions Trading Act 2003, conditions may be specified under section 33(1)(a) of that Act that may be met only in the case of authorities that from time to time are, by reason of provision made under an enactment, of a particular category.  
(c) 1999 c.27.

- (ii) from 1st April 2006, complied in the preceding financial year with the duty not to exceed the landfill allowances imposed on it by section 9(1) of the Waste and Emissions Trading Act 2003;
- (c) a waste collection authority to which the Secretary of State has given notice in writing that it has met the performance standards for waste authorities specified for it for the most recent financial year for which standards were set by an order made under section 4(1) of the Local Government Act 1999;
- (d) the waste authorities for a two-tier area to which the Secretary of State has given notice in writing that she is satisfied that the following conditions are met—
  - (i) the waste disposal authority complies with sub-paragraph (b);
  - (ii) half or more of the waste collection authorities for the area comply with sub-paragraph (c); and
  - (iii) all the other waste collection authorities for the area have made a joint application in writing to the Secretary of State for the disapplication of that duty; and
- (e) the waste authorities for a two-tier area to which the Secretary of State has given notice in writing that she is satisfied that the following conditions are met—
  - (i) the waste disposal authority complies with sub-paragraph (b); and
  - (ii) all the waste authorities for the area have made a joint application in writing to the Secretary of State for the disapplication of that duty.

#### **Duration of disapplication**

3.—(1) A disapplication under regulation 2 shall apply from the date on which the Secretary of State gives the relevant notice in writing to the authority or authorities concerned.

(2) A disapplication under regulation 2(a) shall come to an end six months after the date on which the Secretary of State gives notice in writing to the authority concerned that the conditions specified have not been met for a period of at least two years.

(3) A disapplication under regulation 2(b) shall come to an end six months after the date on which the Secretary of State gives notice in writing to the authority concerned that—

- (a) where notice is given before 1st April 2007, the conditions specified have ceased to be met; or
- (b) where notice is given on or after 1st April 2007, the conditions specified have not been met for a period of at least two years.

(4) A disapplication under regulation 2(c) shall come to an end six months after the date on which the Secretary of State gives notice in writing to the authority concerned that the conditions specified have ceased to be met, but such notice shall not be given until the disapplication has applied for a period of at least two years.

(5) A disapplication under regulation 2(d) shall come to an end six months after the date on which the Secretary of State gives notice in writing to the authorities concerned that she is satisfied that the conditions specified in regulation 2(d)(i) and (ii) have not been met for a period of at least two years.

(6) A disapplication under regulation 2(e) shall come to an end after 30 months.

#### **Modification of application of duties**

4. Where by reason of regulation 2 a duty applies to one or more, but not all, of the waste authorities for a two-tier area, section 32(1) to (7) of the Waste and Emissions Trading Act 2003 shall apply in that area as if a reference to the waste authorities was a reference to the waste authorities to which the duty applies.

8th December 2004

*Elliot Morley*  
Minister of State  
Department for Environment, Food and Rural Affairs

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations, which apply to England, disapply the duties imposed by section 32(1) to (7) of the Waste and Emissions Trading Act 2003 (requiring the waste disposal and collection authorities of areas where the waste disposal authority is not also a waste collection authority to have a joint municipal waste management strategy) from several categories of waste authorities which comply with specified conditions.

Regulation 2 sets out these categories. Regulation 3 provides for the duration of the various disapplications.

Regulation 2(a) refers to an order made under section 99(4) of the Local Government Act 2003. At the time of making these Regulations, the only order which has been made under that subsection is the Local Authorities (Categorisation) (England) Order 2004 (S.I. 2004/1704). Regulation 2(b)(i) and (c) refers to an order under section 4(1) of the Local Government Act 1999. At the time of making these Regulations, the relevant order is the Local Government (Best Value) Performance Indicators and Performance Standards Order 2003 (S.I. 2003/530, as amended by S.I. 2003/864 and article 8 of S.I. 2004/589).

Regulation 4 modifies the application of section 32(1) to (7) of the Waste and Emissions Trading Act 2003 so as to restrict the duties in respect of a joint municipal waste management strategy to those waste authorities which do not qualify for a disapplication under regulation 2.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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